

House of Representatives, March 12, 1998. The Committee on Labor and Public Employees reported through REP. DONOVAN, 84th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MANAGED CARE REFORMS IN WORKERS' COMPENSATION MEDICAL PLANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 31-279 of the general statutes is
2 repealed and the following is substituted in lieu
3 thereof:

4 (a) The chairman of the Workers' Compensation
5 Commission shall adopt regulations, in accordance
6 with the provisions of chapter 54, specifying the
7 minimum information to be contained in a notice of
8 the availability of compensation which shall be
9 posted in the workplace by each employer subject
10 to the provisions of this chapter pursuant to
11 subsection (f) of section 31-284.

12 (b) The chairman of the Workers' Compensation
13 Commission shall, not later than July 1, 1991,
14 adopt regulations, in accordance with chapter 54,
15 to create a uniform system to be used by medical
16 professionals in determining the degree of
17 physical impairment of persons receiving
18 compensation under this chapter.

19 (c) On or after January 1, 1992, any employer
20 or any insurer acting on behalf of an employer,
21 may establish a plan, subject to the approval of
22 the chairman of the Workers' Compensation

23 Commission under subsection (d) of this section,
24 for the provision of medical care which the
25 employer provides for treatment of any injury or
26 illness under this chapter. Each plan shall
27 contain such information as the chairman shall
28 require, including, but not limited to: (1) A
29 listing of all persons who will provide services
30 under the plan, along with appropriate evidence
31 that each person listed has met any licensing,
32 certification or registration requirement
33 necessary for the person to legally provide the
34 service in this state; (2) a designation of the
35 times, places and manners in which the services
36 will be provided; (3) a description of how the
37 quality and quantity of medical care will be
38 managed; and (4) such other provisions as the
39 employer and the employees may agree to, subject
40 to the approval of the chairman. The election by
41 an employee covered by a plan established under
42 this subsection to obtain medical care and
43 treatment from a provider of medical services who
44 is not listed in the plan shall suspend his right
45 to compensation, subject to the order of the
46 commissioner.

47 (d) Each plan established under subsection
48 (c) of this section shall be submitted to the
49 chairman for his approval at least one hundred
50 twenty days before the proposed effective date of
51 the plan and each approved plan, along with any
52 proposed changes therein, shall be resubmitted to
53 the chairman every two years thereafter for
54 reapproval. The chairman shall approve or
55 disapprove such plans [on the basis of] IN
56 CONSULTATION WITH A MEDICAL ADVISORY PANEL
57 APPOINTED BY MEMBERS OF THE GENERAL ASSEMBLY AND
58 THE GOVERNOR'S OFFICE, IN CONSULTATION WITH
59 STATE-WIDE MEMBERSHIP ORGANIZATIONS REPRESENTING
60 MEDICAL PROVIDERS, HEALTH PROFESSIONALS AND
61 EMPLOYEES. REPRESENTATION ON THE MEDICAL ADVISORY
62 PANEL SHALL INCLUDE MEDICAL PROVIDERS, OTHER
63 WORKERS' COMPENSATION HEALTH PROFESSIONALS AND
64 MEMBERS OF EMPLOYEE LABOR ORGANIZATIONS. APPROVAL
65 OR DISAPPROVAL OF SUCH PLANS SHALL BE BASED ON
66 standards established by the chairman in
67 consultation with [a] THE medical advisory panel.
68 [appointed by the chairman.] Such standards shall
69 include, but not be limited to: (1) The ability of
70 the plan to provide all medical and health care

71 services that may be required under this chapter
72 in a manner that is timely, effective and
73 convenient for the employees; (2) the inclusion in
74 the plan of all categories of medical service and
75 of an adequate number of providers of each type of
76 medical service in accessible locations to ensure
77 that employees are given an adequate choice of
78 providers; (3) the provision in the plan for
79 appropriate financial incentives to reduce service
80 costs and utilization without a reduction in the
81 quality of service; (4) the inclusion in the plan
82 of fee screening, peer review, service utilization
83 review and dispute resolution procedures designed
84 to prevent inappropriate or excessive treatment;
85 and (5) the inclusion in the plan of a procedure
86 by which information on medical and health care
87 service costs and utilization will be reported to
88 the chairman in order for him to determine the
89 effectiveness of the plan.

90 (e) THE CHAIRMAN SHALL NOT APPROVE ANY PLAN
91 ESTABLISHED UNDER SUBSECTION (c) OF THIS SECTION
92 UNLESS SUCH PLAN CONTAINS THE FOLLOWING
93 PROVISIONS: (1) A STATEMENT THAT THE PROVISIONS OF
94 ANY SUCH PLAN SHALL BE DISCLOSED UPON ANY WRITTEN
95 REQUEST; (2) A STATEMENT THAT ANY DECISION TO
96 MODIFY OR TERMINATE THE TREATMENT OF AN EMPLOYEE
97 ENROLLED IN SUCH PLAN SHALL BE RESERVED TO A
98 MEDICAL PROVIDER WHO IS TRAINED, EXPERIENCED AND
99 CERTIFIED BY THE APPROPRIATE AMERICAN BOARD IN THE
100 SAME SPECIALTY AS THE TREATING PROVIDER; (3) A
101 STATEMENT THAT NO MEDICAL PROVIDER PARTICIPATING
102 IN THE PLAN SHALL BE PROHIBITED FROM DISCUSSING
103 WITH AN EMPLOYEE ANY TREATMENT OPTION OR MEDICAL
104 SERVICE REGARDLESS IF SUCH TREATMENT OR SERVICE IS
105 COVERED UNDER THE PLAN; (4) A STATEMENT THAT THE
106 PLAN SHALL NOT PENALIZE OR DESELECT ANY MEDICAL
107 PROVIDER WHO OFFERS TREATMENT TO AN EMPLOYEE
108 BEYOND THE TREATMENT RECOMMENDED OR PRESCRIBED BY
109 THE PLAN; (5) A STATEMENT THAT THE PLAN SHALL NOT
110 DISCRIMINATE AGAINST A MEDICAL PROVIDER IN TERMS
111 OF PARTICIPATION, REIMBURSEMENT OR INDEMNIFICATION
112 ON THE BASIS OF LICENSURE OR CERTIFICATION,
113 PROVIDED THE MEDICAL PROVIDER IS LICENSED OR
114 CERTIFIED IN GOOD STANDING AND IS ACTING WITHIN
115 THE SCOPE OF HIS LICENSE OR CERTIFICATION; (6) A
116 STATEMENT THAT ANY EMPLOYEE ENROLLED IN SUCH PLAN
117 MAY ELECT TO SEEK TREATMENT FROM ANY MEDICAL
118 PROVIDER ON THE LIST OF APPROVED PROVIDERS

119 PUBLISHED BY THE CHAIRMAN OF THE WORKERS'
120 COMPENSATION COMMISSION; AND (7) A STATEMENT THAT
121 ANY EMPLOYEE ENROLLED IN SUCH PLAN MAY ELECT TO
122 SEEK TREATMENT AT HIS OWN COST FROM A MEDICAL
123 PROVIDER OUTSIDE OF THE PLAN WITHOUT RISKING
124 SUSPENSION OR TERMINATION FROM THE PLAN.

125 [(e)] (f) Any person who serves as a member
126 of the medical advisory panel, appointed [by the
127 chairman of the Workers' Compensation Commission]
128 pursuant to subsection (d) of this section, shall
129 be deemed to be a state officer or employee for
130 purposes of indemnification and defense under
131 section 5-141d.

132 (g) THE CHAIRMAN OF THE WORKERS' COMPENSATION
133 COMMISSION SHALL REPORT ANNUALLY TO THE JOINT
134 STANDING COMMITTEE OF THE GENERAL ASSEMBLY HAVING
135 COGNIZANCE OF MATTERS RELATING TO LABOR AND PUBLIC
136 EMPLOYEES REGARDING THE MEDICAL EFFECTIVENESS AND
137 EXPERIENCE OF ALL PLANS ESTABLISHED AND APPROVED
138 PURSUANT TO SUBSECTIONS (c) AND (d) OF THIS
139 SECTION.

140 LAB COMMITTEE VOTE: YEA 6 NAY 4 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5075

STATE IMPACT Indeterminate Cost (Workers' Compensation Fund), see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Workers' Compensation Commission

EXPLANATION OF ESTIMATES:

STATE IMPACT: The passage of this bill would result in additional costs to the Workers' Compensation Commission that cannot be determined at this time. The bill requires the Chairman of the Workers' Compensation Commission to consult with the Medical Advisory Panel before approving or disapproving proposed workers' compensation medical plans, and also requires the Chairman to report annually to the Labor and Public Employees Committee on the experience and effectiveness of all approved plans. These costs cannot be determined at this time.

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OLR BILL ANALYSIS

SHB 5075

AN ACT CONCERNING MANAGED CARE REFORMS IN WORKERS' COMPENSATION MEDICAL PLANS

SUMMARY: This bill requires medical plans established by employers under the worker's compensation law to contain specified statements regarding the rights of

employees and health care providers to receive approval from the Workers' Compensation Commission chairman.

The bill also:

1. eliminates the chairman's authority to appoint members of the Medical Advisory Panel he consults with to establish standards for medical plans, and instead grants this authority to unspecified "members of the General Assembly" and the Governor's Office,
2. requires the chairman to consult with the panel before approving or disapproving a plan,
3. requires the chairman to report annually (on an unspecified date) to the Labor and Public Employees Committee on the experience and effectiveness of all approved plans.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Medical Advisory Panel

In appointing the medical advisory panel, General Assembly members and the Governor's office must consult with statewide organizations representing medical providers, health professionals, and employees. Members must represent medical providers, other workers' compensation health professionals, and "collective bargaining representatives."

Statements Required in Medical Plans

The bill requires medical plans to contain these statements:

1. provisions of the plan must be disclosed upon any written request;
2. a decision to modify or end treatment is reserved to a medical provider trained, experienced, and certified by an appropriate American board in the same specialty as the treating provider;

3. the plan's medical providers are free to discuss treatment options and services not covered by the plan;
4. a provider will not be penalized for offering treatment not recommended or prescribed by the plan;
5. the plan will not discriminate against a provider in terms of participation, reimbursement, or indemnification on the basis of licensure or certification, as long as the provider is licensed or certified in good standing and acts within his scope of practice;
6. a plan member may seek treatment from any provider on the chairman's published list of approved providers; and
7. a plan member may seek treatment at his own expense from a provider outside the plan without risking suspension or termination.

BACKGROUND

Related Statute and Regulations

By law, the chairman cannot approve a workers' compensation medical plan unless it meets standards specified by statute (CGS § 31- 279 sub. (d)) and regulation (Connecticut Law Journal, January 27, 1998). Statutory standards include:

1. the plan's ability to provide all medical and health services required by workers' compensation law in a timely, effective, and convenient way;
2. having all categories of medical service and enough providers of each service in convenient locations to assure adequate choice for employees;
3. appropriate financial incentives to cut service costs and use without reducing quality;

4. fee screening, peer review, service utilization review, and dispute resolution procedures aimed at preventing inappropriate or excessive treatment; and
5. a procedure for reporting costs and use to the chairman so he can determine the plan's effectiveness.

Regulations require plans to provide, among other standards and information:

1. a description of the selection and removal procedure for providers;
2. a description of the plan's review and appeal procedures and standards for utilization review and dispute resolution;
3. assurance of enough providers to offer immediate care for emergency cases;
4. inclusion of at least one occupational health clinic, auxiliary occupational health clinic, or hospital with a board eligible or certified occupational health physician;
5. a minimum of five providers of each of 26 listed types of medical and health care service; and
6. a list of the plan's employee and contract providers.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 6 Nay 4